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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/892,254

06/27/2001

James Gips

BOK-002.01

3288

25181

7590

07/28/2006

FOLEY HOAG, LLP

PATENT GROUP, WORLD TRADE CENTER WEST

155 SEAPORT BLVD

BOSTON, MA 02110

EXAMINER

KE, PENG

ART UNIT

PAPER NUMBER

2174

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/892,254	GIPS ET AL.	
	Examiner	Art Unit	
	Peng Ke	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48 and 52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48 and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/27/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is responsive to communications: Amendment, filed on 5/16/06.

This action is final.

Claims 48 and 52 are pending in this application. Claim 48 is independent claims. In the Amendment, filed on 5/16/06, claims 48 and 52 were amended and claims 49, 51, and 53-57 were cancelled.

Claim Rejections - 35 USC § 103

Claims 48 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kang US Patent 6,009,210, in view of Kim US 6,999,604, in view of Cohen US Publication 2004/0161132.

As per claim 48, Kang teaches a method for emulating a mouse in providing input to a computer program which uses a visual display for providing user information and an indicator in the visual display for permitting user control, comprising:

(a) Choosing feature consisting of at least a portion of a head or face of a computer user; (column 1, lines 55-column 2, lines 5)

(c) determining a subsequent location of the feature in a video image from the video camera at a subsequent given time, by correlating greyscale intensities of pixels in trial subimages of the video image at the subsequent given time, with greyscale intensities of pixels in a subimage including the chosen feature in the video image at the first time, and selecting the trial subimage of the video image at the subsequent given time which has the highest correlation to the subimage including the chosen feature in the video image at the first time; (column 2, lines 23-36)

emulating a use of a movement of the mouse to move the indicator in the visual display , by determining the indicator location at the subsequent given item based upon a location of the indicator at the first time, and a change between a location of the feature in the video image at the first time and the location of the feature in the video image at the subsequent given time; (column 1, lines 55-column 2, lines 5) and

However, Kang does not explicitly teaches (b) determining a location of the feature in a video image from a video camera a first time, the video image being formed by reflection of ambient light from object in the video camera field of view including reflection from the feature;

Kim teaches determining a location of the feature in a video image from a video camera a first time, the video image being formed by reflection of ambient light from object in the video camera field of view including reflection from the feature; (column 6, lines 5-column 7, lines 15)

It would have been obvious to an artisan at the time of the invention to include Kim's teaching with method of Kang in order to provide a method for detecting a moving object wherein the detection is not affected by background images, and the size and orientation of the moving object.

However both Kang and Kim fail to teach emulating a use of a click from the mouse to provide an input signal to the computer program by providing an input signal in response to the location of the feature in the video image being confined to a region defined by a radius for a defined period of time.

Cohen teaches emulating an operation to provide an input signal to the computer program by providing an input signal in response to the location of the feature in the video image being

Art Unit: 2174

confined to a region defined (figure 31, items static gestures) by a radius for a defined period of time. (paragraph 0156)

It would have been obvious to an artisan at the time of the invention to include Cohen's teaching with method of Kang and Kim in order to allow users to send input using static gestures.

As per claim 52, which is dependent on claim 48, Kang, Kim and Cohen teach the method of the 48. Cohen further teaches wherein:

The input signal provided is selected from a group consisting of letters, number, spaces, punctuation marks, other defined characters and signals associated with defined actions to be taken by the computer program; (paragraph 0013)

The selection of the input signal is determined by the location of the feature in the video image. (paragraph 0013)

Response To Argument

Applicant's arguments with respect to claims 48 and 52 have been considered but are deemed to be moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 2174

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peng Ke whose telephone number is (571) 272-4062. The examiner can normally be reached on M-Th and Alternate Fridays 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Peng Ke

Application/Control Number: 09/892,254

Page 6

Art Unit: 2174

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